



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Order 96-3-25
Served 3/19/96

Issued by the Department of Transportation
on the 13th day of March, 1996

Agreement adopted by the Tariff :
Coordinating Conferences of the : **Docket** OST-95-601
International Air Transport Association : R-1 through R-28
relating to passenger fare matters :

ORDER

Various members of the International Air Transport Association (IATA) have filed an agreement with the Department under section 412(a) of the Federal Aviation Act of 1958, as amended, and Part 303 of the Department's regulations. The agreement was adopted at the IATA Composite Passenger Tariff Coordinating Conference held in Montreal during August 1-4, 1995. 1/

The agreement proposes a variety of amendments, most of which are technical, editorial or clarifying in nature, to existing resolutions, applicable on an area or worldwide basis. These include resolutions dealing with baggage, currency and fare construction rules, practices and/or procedures; refunds and reroutings; counting of stopovers; inclusive tour provisions; fares for ships' crews and students; free/reduced fares for tour conductors; and charges for prepaid ticket advice services. Also included is a new "housekeeping" resolution listing the various common acronyms, such as "HIP" (Higher Intermediate Point), used in various fare construction rules.

The agreement also includes a substantive proposal permitting carriers to collect, if they choose, a handling charge for voluntary refunds of unused tickets and miscellaneous charges orders. This charge would not be less than \$25 (or its local currency equivalent), except in the U.S. where it would be \$35, and in EC member states where no specific charge is agreed; would be collected by the refunding carrier; and would not be commissionable. 2/ In addition, the charge would not be levied on tickets issued under fares whose governing rules currently impose a refund penalty.

1/ IATA memorandum COMP Reso/P 1060.

2/ In EC member states, the agreement allows each carrier to determine the level of its voluntary refund charge.

Except as discussed below, we have decided to approve the agreement, subject to all conditions that we have imposed previously. For the most part, these changes and revisions are purely technical, editorial or clarifying in nature, and do not propose material changes at odds with our substantive policies and concerns. Based on our review of the information submitted and other relevant material, we conclude that these portions of the agreement, as conditioned, will not result in fares that are unlawful or injurious to competition in the markets at issue.

We will disapprove the proposed handling charge for voluntary refunds of unused tickets and miscellaneous charges orders. The member carriers of IATA have not provided any economic justification showing the costs of providing refunds or the relation between such costs and the proposed refund charges. Furthermore, the charge will largely apply to refunds of normal first, business [intermediate] and economy class fares, since most special and promotional fares already carry cancellation and refund penalties. These normal fares are already set at levels which presumably cover the costs of ancillary services such as voluntary refunds of unused travel documents. In these circumstances, we see no compelling need for the imposition of a uniform industry-wide standard, binding on all IATA member carriers. However, should an individual carrier encounter special circumstances that require a charge for voluntary refunds, it may make an appropriate unilateral tariff filing along with detailed economic justification for the charge.

Acting under Title 49 of the United States Code (the Code), and particularly sections 40101, 40103, 41300 and 41309:

1. We do not find the following resolutions, which are incorporated in the agreement in Docket OST-95-601 as indicated and which have either direct or indirect application in foreign air transportation as defined by the Code, to be adverse to the public interest or in violation of the Code, provided that approval is subject, where applicable, to conditions previously imposed:

<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
<u>OST-95-601</u>	<u>No</u>		
R-1	001qq	Special Baggage Resolution	1;2;3;1/2; 2/3;3/1;1/2/3
R-2	001x	Special Baggage Tie-in Resolution (Weight System)	1;2;3;1/2; 2/3;3/1;1/2/3
R-3	002	Standard Revalidation Resolution	1;2;3;1/2; 2/3;3/1;1/2/3
R-4	012	Glossary of Terms	1;2;3;1/2;

2/3;3/1;1/2/3

<u>Docket</u> <u>OST-95-601</u>	<u>IATA</u> <u>No</u>	<u>Title</u>	<u>Application</u>
R-5	012c	Fare Construction Rule Acronyms	1;2;3;1/2; 2/3;3/1;1/2/3
R-6	014a	Construction Rule for Passenger Fares	1;2;3;1/2; 2/3;3/1;1/2/3
R-7	014c	Construction Rule for Helicopter Service	1;2;3;1/2; 2/3;3/1;1/2/3
R-8	014L	Construction Rule for Narita/ Hanada Airports	3;2/3;3/1; 1/2/3
R-9	024d	Currency Names, Codes, Rounding Units and Acceptability of Currencies	1;2;3;1/2; 1/3;3/1;1/2/3
R-10	024e	Rules for Payment of Local Currency Fares	1;2;3;1/2; 1/3;3/1;1/2/3
R-11	024h	Refunds and Reroutings	1;2;3;1/2; 2/3;3/1;1/2/3
R-12	024j	Special Construction Rules	1;2;3;1/2; 2/3;3/1;1/2/3
R-13	024k	Currency Related Rules	1;2;3;1/2; 2/3;3/1;1/2/3
R-14	038	Taxes, Fees and Charges	1;2;3;1/2; 2/3;3/1;1/2/3
R-15	040	Stopovers	1;2;3;1/2; 2/3;3/1;1/2/3
R-16	047a	Provisions for Inclusive Tours	1;2;3;1/2; 2/3;3/1;1/2/3
R-17	047b	Provisions for Inclusive Tours Initiated in Germany	2;1/2;2/3; 1/2/3

R-18	087aa	Group Fares for Ships' Crews	2;3;2/3;1/2/3
R-19	090	Individual Fares for Ships' Crews	1;2;3;1/2; 2/3;3/1;1/2/3
R-20	092	Student Fares	2;3;1/2;2/3; 1/2/3

<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
<u>OST-95-601</u>	<u>No</u>		
R-21	204c	Free/Reduced Fares for Tour Conductors	1;2;3;1/2; 2/3;3/1;1/2/3
R-24	210	Charge for PTA Services	2;3;1/2;2/3; 3/1;1/2/3
R-25	211	Special Charges Resolution-Lebanon (Except USA and US Territories)	2;1/2;2/3; 1/2/3
R-26	300	Baggage Allowance Weight System	1;2;3;1/2; 2/3;3/1;1/2/3
R-27	301	Baggage Allowance (Piece System)	1;3;1/2;3/1; 1/2/3
R-28	313	Commercial Couriers	1;2;3;1/2; 2/3;3/1;1/2/3

2. We find the following resolutions, which are incorporated in the agreement in Docket OST-95-601 as indicated and which have direct application in foreign air transportation as defined by the Code, to be adverse to the public interest and in violation of the Code:

<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
<u>OST-95-601</u>	<u>No</u>		
R-22	209	Handling Charge for Voluntary Refunds	1;2;3;1/2; 2/3;3/1;1/2/3
R-23	209e	Handling Charge for Voluntary Refunds in EC Member States	2;1/2;2/3; 1/2/3

3. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless approved on foreign policy and comity grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an

anticompetitive agreement is approved in order to attain other objectives, the conferral of antitrust immunity is mandatory under Title 49 of the United States Code.

Order 85-5-32 contemplates that the products of fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to those portions of the agreement in Docket OST-95-601 as set forth in finding paragraph 1 above, subject, where applicable, to conditions previously imposed.

ACCORDINGLY,

1. We approve and grant antitrust immunity to those portions of the agreement contained in Docket OST-95-601, as set forth in finding paragraph one above, subject, where applicable, to conditions previously imposed; and

2. We disapprove those portions of the agreement contained in Docket OST-95-601, as set forth in finding paragraph two above.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

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